

# SENATE BILL 97

E2, D1

(0lr0936)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by ~~Senator Mooney~~ Senators Mooney, Muse, Frosh, and Raskin

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Office of the Public Defender – Board of Trustees – ~~Composition~~ Membership**

3 FOR the purpose of ~~altering the composition of the Board of Trustees of the Office of~~  
4 ~~the Public Defender; altering the manner by which members of the Board of~~  
5 ~~Trustees are appointed; establishing qualifications of members of the Board of~~  
6 ~~Trustees; establishing the number of members of the Board of Trustees~~  
7 ~~necessary for a quorum; authorizing a certain number of members of the Board~~  
8 ~~of Trustees to call for additional meetings; providing for diversity of~~  
9 ~~membership of the Board of Trustees; providing for the manner in which~~  
10 ~~vacancies are filled on the Board of Trustees~~ repealing the requirement that the  
11 Public Defender serve at the pleasure of the Board of Trustees of the Office of  
12 the Public Defender; specifying that the Board of Trustees may remove the  
13 Public Defender for certain reasons, only on the recommendation of the Board of  
14 Trustees; providing that the Public Defender may serve for a certain term;  
15 increasing the number of members of the Board of Trustees; altering the

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 method of selection of the members of the Board of Trustees; increasing the  
 2 number of members of the Board of Trustees who are required to be active  
 3 attorneys admitted to practice before the Court of Appeals of Maryland;  
 4 requiring certain members of the Board of Trustees to have certain  
 5 qualifications; prohibiting certain persons from serving on the Board of  
 6 Trustees; providing for the staggering of terms of the Board of Trustees;  
 7 specifying that at the end of a term a member of the Board of Trustees  
 8 continues to serve until a successor is appointed and qualifies; authorizing the  
 9 reappointment to the Board of Trustees of a member whose term has expired;  
 10 providing for the manner of appointing a member to fill a vacancy on the Board  
 11 of Trustees; increasing the requirements for a quorum of the Board of Trustees;  
 12 ~~altering the number of members of the Board of Trustees that are required to~~  
 13 ~~make a request in order to call for an additional meeting;~~ requiring that the  
 14 initial members of the Board of Trustees be appointed on or before a certain  
 15 date; specifying the terms of the initial members of the Board of Trustees;  
 16 providing that a member of the Board of Trustees who is serving on the effective  
 17 date of this Act shall continue to serve until a successor is appointed and  
 18 qualifies; providing that the Public Defender who is serving on the effective date  
 19 of this Act may continue to serve for a certain time *and may be reappointed after*  
 20 *the expiration of the Public Defender's term;* and generally relating to ~~the Board~~  
 21 ~~of Trustees~~ of the Office of the Public Defender.

22 BY repealing and reenacting, with amendments,  
 23 Article – Criminal Procedure  
 24 Section 16–203(a) and 16–301  
 25 Annotated Code of Maryland  
 26 (2008 Replacement Volume and 2009 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article – Criminal Procedure**

30 16–203.

31 (a) (1) The head of the Office is the Public Defender.

32 (2) The Public Defender shall be appointed by [and serve at the  
 33 pleasure of] the Board of Trustees.

34 (3) **BY A VOTE OF AT LEAST SEVEN MEMBERS, THE BOARD OF**  
 35 **TRUSTEES MAY REMOVE THE PUBLIC DEFENDER FOR:**

36 (i) **MISCONDUCT IN OFFICE;**

1                            (II) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE  
2 OFFICE; OR

3                            (III) CONDUCT PREJUDICIAL TO THE PROPER  
4 ADMINISTRATION OF JUSTICE.

5                            (4) To qualify for appointment as Public Defender, an individual shall  
6 be an attorney admitted to practice law in the State by the Court of Appeals of  
7 Maryland who has engaged in the practice of law for at least 5 years before  
8 appointment.

9                            [(4)] (5) The Public Defender shall receive the same salary as a judge  
10 of a circuit court.

11                            [(5)] (6) The Public Defender may not engage in the private practice  
12 of law.

13                            (7) THE PUBLIC DEFENDER SERVES FOR A TERM OF 6 YEARS.

14 16-301.

15                            (a) There is a Board of Trustees of the Office of the Public Defender.

16                            (b) The Board of Trustees consists of [three] ~~THE FOLLOWING ELEVEN~~ 13  
17 [members appointed by the Governor.] MEMBERS;.

18                            ~~(1) FOUR MEMBERS APPOINTED BY THE GOVERNOR;~~

19                            ~~(2) TWO MEMBERS APPOINTED BY THE CHIEF JUDGE OF THE~~  
20 ~~COURT OF APPEALS;~~

21                            ~~(3) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE~~  
22 ~~SENATE;~~

23                            ~~(4) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE;~~

24                            ~~(5) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE~~  
25 ~~MARYLAND STATE BAR ASSOCIATION;~~

26                            ~~(6) ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY~~  
27 ~~OF MARYLAND SCHOOL OF LAW; AND~~

28                            ~~(7) ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY~~  
29 ~~OF BALTIMORE SCHOOL OF LAW.~~

1 (c) (1) Each member of the Board of Trustees shall be a resident of the  
2 State.

3 (2) NINE 11 MEMBERS OF THE BOARD OF TRUSTEES SHALL BE  
4 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE  
5 SENATE AND SHALL INCLUDE A REPRESENTATIVE OF EACH JUDICIAL CIRCUIT  
6 OF THE STATE.

7 ~~(2)~~ (3) [Two] ~~AT LEAST NINE SIX~~ ALL members of the Board of  
8 Trustees ~~APPOINTED BY THE GOVERNOR~~ shall be active attorneys admitted to  
9 practice before the Court of Appeals of Maryland.

10 ~~(D) TO THE EXTENT PRACTICABLE, IN APPOINTING MEMBERS TO THE~~  
11 ~~BOARD, THE APPOINTING AUTHORITIES SHALL ENSURE THAT:~~

12 ~~(1) EACH GEOGRAPHIC REGION OF THE STATE IS REPRESENTED~~  
13 ~~EQUITABLY; AND~~

14 ~~(2) THE BOARD OF TRUSTEES COLLECTIVELY REFLECTS THE~~  
15 ~~RACIAL, ETHNIC, AGE, AND GENDER DIVERSITY OF THE STATE~~

16 ~~(4) ONE MEMBER SHALL BE APPOINTED BY THE PRESIDENT OF~~  
17 ~~THE SENATE.~~

18 ~~(5) ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE~~  
19 ~~HOUSE OF DELEGATES.~~

20 ~~(6) ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF~~  
21 ~~MARYLAND SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

22 ~~(7) ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF~~  
23 ~~BALTIMORE SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.~~

24 ~~(8) EACH MEMBER APPOINTED TO THE BOARD OF TRUSTEES~~  
25 ~~SHALL:~~

26 ~~(I) HAVE SIGNIFICANT EXPERIENCE IN CRIMINAL DEFENSE~~  
27 ~~OR OTHER MATTERS RELEVANT TO THE WORK OF THE BOARD OF TRUSTEES; OR~~

28 ~~(II) HAVE DEMONSTRATED A STRONG COMMITMENT TO~~  
29 ~~QUALITY REPRESENTATION OF INDIGENT DEFENDANTS, INCLUDING JUVENILE~~  
30 ~~RESPONDENTS.~~

31 ~~(9)~~ (7) A MEMBER OF THE BOARD OF TRUSTEES MAY NOT BE:

**(I) A CURRENT MEMBER OR EMPLOYEE OF:****1. THE JUDICIAL BRANCH; OR****2. A LAW ENFORCEMENT AGENCY IN THE STATE; OR****(II) 1. A STATE'S ATTORNEY OF A COUNTY OR MUNICIPAL CORPORATION OF THE STATE;****2. THE ATTORNEY GENERAL OF MARYLAND; OR****3. THE STATE PROSECUTOR.**

~~[(d)] (E)~~ (1) The term of ~~a~~ AN APPOINTED member of the Board of Trustees is 3 years.

**(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON OCTOBER 1, 2010.**

~~(2)~~ **(3) A vacancy occurring on the Board of Trustees during the term of a member shall be filled [by the Governor] for the remainder of the unexpired term IN THE SAME MANNER AS PROVIDED FOR APPOINTMENTS IN THIS SECTION.**

**(4) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

**(5) A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED TO THE BOARD OF TRUSTEES.**

~~[(e)] (F)~~ (1) The Board of Trustees annually shall elect a chair from among its members.

(2) The chair shall preside over and represent the interests of the Board of Trustees in carrying out this title.

~~[(f)] (G)~~ ~~[(Two)] SIX~~ SEVEN members of the Board of Trustees are a quorum.

~~[(g)] (H)~~ (1) The Board of Trustees shall hold at least one regular annual meeting at a time and place that the chair designates.

1           (2) Additional meetings shall be held as necessary and may be called  
2 on notice by the chair or at the request of at least ~~two~~ **FOUR** members of the Board  
3 of Trustees.

4           ~~[(h)]~~ ~~(4)~~ A member of the Board of Trustees:

5           (1) may not receive compensation for serving on the Board of Trustees;  
6 but

7           (2) is entitled to reimbursement for expenses under the Standard  
8 State Travel Regulations, as provided in the State budget.

9           SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of  
10 the Board of Trustees shall be appointed on or before December 31, 2010.

11           SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial  
12 appointed members of the Board of Trustees shall expire as follows:

13           (1) the members appointed by the Governor representing judicial  
14 circuits one through four in 2012;

15           (2) the members appointed by the Governor representing judicial  
16 circuits five through eight in 2013; and

17           (3) the members appointed by the President of the Senate and the  
18 Speaker of the House of Delegates in 2014.

19           SECTION 4. AND BE IT FURTHER ENACTED, That a member of the Board of  
20 Trustees who is serving on the effective date of this Act shall continue to serve until a  
21 successor is appointed and qualifies.

22           SECTION 5. AND BE IT FURTHER ENACTED, That the Public Defender who  
23 is serving on the effective date of this Act may continue to serve until 6 years after the  
24 effective date of this Act and may be reappointed after the expiration of the Public  
25 Defender's term.

26           SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take  
27 effect ~~October~~ June 1, 2010.